

REMARKS/ARGUMENTS

Claims 1 and 53 have been amended by incorporating subject matter from claims 60, 62 and 64 into them.

Claims 60, 62 and 64 have been canceled.

Claims 1-11, 18, 26-35, 44-55, 57-59, 61, 63 and 65-70 are currently pending, although claims 8, 18 and 29-35 have been withdrawn from consideration. Upon indication of allowable subject matter, Applicants intend to seek appropriate rejoinder of withdrawn claims pursuant to MPEP 821.04.

The Office Action rejected the pending claims under 35 U.S.C. §103 as obvious over U.S. patent 6,033,650 (“Calello”) in view of U.S. patent 5,981,680 (“Petroff”). In view of the following comments, Applicants respectfully request reconsideration and withdrawal of this rejection.

During the telephonic Interview on October 22, 2009, Applicants argued that the octyldodecanol disclosed in the examples of Calello are part of a commercial product and are not added alone, and that this means that very little octyldodecanol is added to Calello’s examples. The Examiner, in part, took the position that the claims failed to specify a range to overcome the teachings of Calello. Applicants respectfully submit that the above amendments and discussion below address the issues discussed during the Interview, and that the present application is in condition for allowance.

More specifically, the present invention relates to the combination of a specific type of polymer (exemplified by nylon 611/dimethicone polymers) and a significant amount (5-

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25%) of a specific type of agent (linear or a branched aliphatic monoalcohol having more than 8 carbon atoms but not more than 26 carbon atoms). As demonstrated in the examples of the present application, this combination yields compositions having improved cosmetic properties including improved deposition of materials onto keratinous materials such as skin. Nothing in the applied art would have led one of ordinary skill in the art to this specific, unique combination of elements, or to any of the benefits associated with this combination.

Calello, the primary reference, exemplifies compositions containing only 0.5% of a product containing “octyldodecanol/trilaurin/phospholipid/cholesterol/glycosphingolipid.” The inclusion of this product in Calello’s compositions does not teach or suggest including octyldodecanol by itself into a composition for any particular reason, let alone combining it by itself in the significant specified amounts (5-25%) with the specified polymer as required by the present invention

As noted in Applicants’ previous responses, although Calello does not identify the product which he used in his compositions, the product appears to be a Sphingoceryl® product. Also as noted in Applicants’ previous responses, such products are generally included in compositions as active agents owing to the presence of phospholipid/cholesterol/glycosphingolipid in the product. Thus, Calello’s inclusion of this product as an active agent in his compositions would teach or suggest nothing about the importance of including octyldodecanol into compositions. Stated another way, Calello does not recognize that the presence of an aliphatic alcohol such as octyldodecanol is a result effective variable which could affect the physical properties of the composition to which it was added, so Calello’s including 0.5% of a product containing octyldodecanol which is added for the beneficial

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properties of the other ingredients in the product cannot teach or suggest adding at least 5% octyldodecanol by itself with the reasonable expectation that such addition of octyldodecanol would be beneficial.

The fact that Calello does not teach, suggest or recognize the result effective nature of the required aliphatic alcohol, combined with the fact that Calello neither teaches nor suggests the claimed polymers, leads to the clear conclusion that Calello could not possibly lead to the unique combination of elements required by the present invention.

Petroff, which merely discloses the claimed polymers, cannot compensate for Calello's glaring deficiencies -- Petroff does not teach, suggest or recognize the result effective nature of the required aliphatic alcohol, so the combination of the applied references could not lead to the invention compositions.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection under 35 U.S.C. §103.

The Office Action also issued several double patenting rejections. However, none of the applications/patents in these rejections would have led one of ordinary skill in the art to the invention compositions having the required polymer and the required amounts of the required aliphatic alcohol. At any rate, Applicants respectfully request that these rejections be held in abeyance until indication that allowable subject matter exists.

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Applicants believe that the present application is in condition for allowance. Prompt and favorable consideration is earnestly solicited.

Respectfully submitted,

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